

STEVEN B. KILLPACK, Federal Defender (#1808)
L. CLARK DONALDSON, Assistant Federal Defender (#4822)
UTAH FEDERAL DEFENDER OFFICE
Attorneys for Defendant
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
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FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 18 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT LLOYD ZESIGER, JR.

Defendant.

ORDER TO CONTINUE TRIAL

Case No.1:05CR079 DB

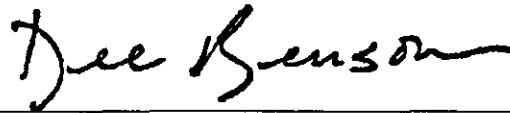
Based on motion of the defendant, stipulation of the government and good cause appearing;

IT IS HEREBY ORDERED that the trial previously scheduled for August 21, 2006 is continued to the 23 day of Oct, 2006, at 8:30 .m. Pursuant to 18 U.S.C. § 3161(h), the court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial on the ground that counsel for the defendant needs to have completed the formal written neurological evaluation to present to the

government for its review to reach a final settlement in this case. This period of delay shall be excludable under the Speedy Trial Act.

Dated this 18 day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Dee Benson". The signature is written in a cursive, flowing style. The first name "Dee" is written with a large, stylized 'D' that loops around the first few letters. The last name "Benson" is written in a more standard cursive script.

HONORABLE DEE BENSON
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM KIM PITCHER,

Defendant.

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1:05 CR 00123 DAK

ORDER GRANTING LEAVE OF
COURT TO FILE A DISMISSAL OF
THE INDICTMENT

Based upon the motion of the United States of America, and for good cause appearing, the Court hereby grants leave under Fed.R.Crim.P. 48(a) to allow the United States of America to file a dismissal of the Indictment in the above-referenced case against the defendant, WILLIAM KIM PITCHER.

DATED this 22nd day of August, 2006.

BY THE COURT:



DALE A. KIMBALL
United States District Court Judge

**COLLEEN K. COEBERGH, 8052
ATTORNEY AT LAW
29 South State Street, #007
SALT LAKE CITY, UTAH 84111
TELEPHONE: (801)364-3300
FACSIMILE (801)359-2892**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANDREW DAVID JARAMILLO,

Defendant.

ORDER GRANTING
MOTION TO CONTINUE

Case No. 1:05CR00136TS


Judge B. Ted Stewart

This matter having come before the Court upon Defendant, Andrew David Jaramillo's, Second Motion to Continue the Jury Trial in this matter and there appearing good cause therefore,

IT IS HEREBY ORDERED that the Defendant's Motion to Continue the Jury Trial shall be, and the same hereby is GRANTED. The Court specifically finds that the interest of the Defendant and the public in speedy trial is outweighed by the need for adequate preparation time for newly appointed counsel for the Defendant. As such, the time between the former trial date of August 14th, 2006, to the next trial date shall be excluded from computation for purposes of the Speedy Trial Act, §18 U.S.C. 3161, *et. seq.*

The trial previously scheduled for September 6th, 2006, shall be, and the same hereby is, continued to the 20th and 21st days of November, 2006, starting at the hour of 8:30 a.m.

Dated this 22nd day of November, 2006.



Judge B. Ted Stewart
District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA, :

Plaintiff, : CASE # 1:06CR00041

vs. : PRELIMINARY ORDER OF

SERGIO AGUILAR-DELAROSA, : FORFEITURE

Defendant. : JUDGE Dale A. Kimball

IT IS HEREBY ORDERED that:

1. As a result of a plea of guilty to Counts 1 and 2 of the Indictment for which the government sought forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461 the defendant Sergio Aguilar-Delarosa shall forfeit to the United States all property, real or personal, that is derived from, used, or intended to be used in violation of 18 U.S.C. §§ 1546(a) and 2, including but not limited to:

- \$31,000.00 in U.S. Currency
- Real Property located at 668 24th Street, Ogden, Utah
- one HP Pavilion CPU Computer, Serial # MXM3380528
- one Samsung Syncmaster Computer Monitor, Serial # GG15HVEW801471X
- one HP PSC 2175 Printer/Scanner/Copier, Serial # MY36DC830K
- one Underwriter Laboratory PL4A Laminator, Serial # AEC152511
- one Brother SX4000 Typewriter, Serial # HOD932805
- one Computer Mouse

- one Computer Keyboard

2. The Court has determined that based on a guilty plea of immigration / residency / employment document fraud and aiding and abetting, that the above-named properties is subject to forfeiture, that the defendant had an interest in the properties, and that the government has established the requisite nexus between such properties and such offense.

3. Upon entry of this Order the Attorney General, or its designee is authorized to seize and conduct any discovery proper in identifying, locating, or disposing of the properties subject to forfeiture, in accordance with Fed. R. Crim. P. 32.2(b)(3).

4. Upon entry of this Order the Attorney General or its designee is authorized to commence any applicable proceeding to comply with statutes governing third party interests, including giving notice of this Order.

5. The United States shall publish notice of this Order on its intent to dispose of the property in such a manner as the Attorney General may direct. The United States may also, to the extent practicable, provide written notice to any person known to have an alleged interest in the subject currency and property.

6. Any person, other than the above named defendants, asserting a legal interest in the subject property may, within thirty days of the final publication of notice or receipt of notice, whichever is earlier, petition the Court for a hearing without a jury to adjudicate the validity of his alleged interest in the subject property, and amendment of the order of forfeiture pursuant to 21 U.S.C. § 853.

7. Pursuant to Fed. R. Crim. P. 32.2(b)(3), this Preliminary Order of Forfeiture shall become final as to the defendants at the time of sentencing and shall be made part of the sentence and included in the judgment.

8. Any petition filed by a third party asserting an interest in the subject currency and property shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's acquisition of the right, title, or interest in the subject property, any additional facts supporting the petitioners claim and relief sought.


9. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Criminal Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

10. The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853 which is incorporated by 18 U.S.C. § 982(b) for the filing of third party petitions.

12. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated this 22nd day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dale A. Kimball". The signature is written in a cursive, flowing style.

DALE A. KIMBALL, Judge
United States District Court

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT

AUG 21 2006

DISTRICT OF UTAH, NORTHERN DIVISION

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JERROD HENDERSON

Defendant.

ORDER TO CONTINUE JURY
TRIAL

Case No. 1:06CR 7 TC
Hon. J. Thomas Greene

This matter is currently set for jury trial to commence on **September, 26, 2007**. The United States is represented by Karin Fojtik.

IT IS FURTHER ORDERED: because of the complexity of this matter, the ongoing discussions, the need for defense counsel to further prepare this matter, and based on the motion to continue filed in this matter, and the stipulation to this continuance by defense counsel, the time between September 26, 2006, and the new trial date of December 4, '06 at 10 AM 2006, is excluded from the calculation under the Speedy Trial Act in order to grant defense counsel and the

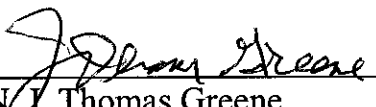
government sufficient time to prepare for trial. The Court finds that such a continuance is required for effective preparation for trial taking into account the exercise of due diligence. The court further finds that this additional time outweighs the best interest of the public and the defendant in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8)(A).

The Court sets a new Motion Cut-off date of November 3, 2006. JTB

The Court sets a new Plea Cut-off date of November 27, 2006. 8/21/06

Defendant is still Not Guilty - Bill stipulated jury selection, jury verdict + Verdict sheet
DATED this 21 day of August, 2006. 11/21/06 at 12 N copy

BY THE COURT:



HON. J. Thomas Greene
U.S. DISTRICT COURT JUDGE

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 21 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

Jonathan A. Dibble (0881)
Keith A. Kelly (4748)
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500

Attorneys for Defendant Michael Jensen

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

LANE F. SMITH, M.D.,

Plaintiff,

v.

DAVIS SURGICAL CENTER, LLC, MARK
BITNER, ROBERT SORENSEN, CRAIG
HALL, BRIAN RICHARDS, JOHN
BURRELL, LAMONT ERICSON, MARK
HALL, MIKE JENSEN,

Defendants.

Civil No. 1:06CV00015 DB

Judge: Dee Benson

ORDER

**(a) DISMISSING ALL CLAIMS
AGAINST INDIVIDUAL
DEFENDANTS,
AND
(b) DISMISSING ALL FRAUD
CLAIMS**

On March 23, 2006, the Defendants jointly moved to this Court (a) to dismiss Plaintiff's fraud claims, and (b) to dismiss all claims against the individual Defendants: Mark Bitner, Robert Sorensen, Craig Hall, Brian Richards, John Burrell, Lamont Ericson, Mark Hall, and Mike Jensen (collectively "Individual Defendants").

Defendants argued that Plaintiff has failed to plead fraud with particularity as required by Fed. R. Civ. P. 9(b). Furthermore, Defendants argued that Plaintiff failed to describe any claims directed at the Individual Defendants personally, as opposed to claims against Davis Surgical Center, LLC ("Davis Surgical Center"), the defendant limited liability company.

Defendants' Motion was fully briefed by the parties, and the Affidavit of Plaintiff Lane F. Smith was submitted in opposition to the Motion. On July 27, 2006, all parties appeared before the Court and presented oral argument. Keith A. Kelly represented Defendant Mike Jensen. Gary R. Guelker represented Defendants Mark Bitner, Robert Sorensen, Craig Hall, Brian Richards, John Burrell, Lamont Ericson, Mark Hall, and Davis Surgical Center. Kenneth D. Lougee represented Plaintiff Lane F. Smith, M.D.

Being fully advised, and good cause appearing therefor,

IT IS HEREBY ORDERED:

1. Individual Defendants. All claims against the Individual Defendants, Mark Bitner, Robert Sorensen, Craig Hall, Brian Richards, John Burrell, Lamont Ericson, Mark Hall, and Mike Jensen, are dismissed.

Plaintiff fails to allege a factual or legal basis for holding the Individual Defendants personally liable. Seeking personal director liability, Plaintiff argues that the Board of Directors improperly valued his ownership interest in the company and prevented his sale of those shares to a third party at a higher price. (Affidavit of Lane F. Smith, M.D. ¶ 5.) Plaintiff's claim is based upon paragraph 13.5 of the company's Operating Agreement. (*Id.* ¶ 3.) Nowhere does Plaintiff allege any personal duty the directors may have owed to Plaintiff. He merely alleges

that the Board as a whole took actions that harmed him. He fails to state a claim against the Board members personally.

2. Fraud Claims. All fraud claims are dismissed as to all Defendants.

In his opposition, Plaintiff has failed to allege or argue the following elements necessary to state a claim for fraud:

(1) that a representation was made (2) concerning a presently existing material fact (3) which was false and (4) which the representor either (a) knew to be false or (b) made recklessly, knowing that there was insufficient knowledge upon which to base such a representation, (5) for the purpose of inducing the other party to act upon it and (6) that the other party, acting reasonably and in ignorance of its falsity, (7) did in fact rely upon it (8) and was thereby induced to act (9) to that party's injury and damage.

Gold Standard, Inc. v. Getty Oil Co., 915 P.2d 1060, 1066-67 (Utah 1996) (citations omitted).

Under Fed. R. Civ. P. 9(b), each of these elements must be alleged with particularity.

Because Plaintiff has failed to allege or argue these elements, his fraud claims are subject to dismissal. *E.g., Precision Vascular Systems, Inc. v. Sarcos L.C.*, 199 F.Supp.2d 1181, 1191 (D. Utah 2002) (dismissing common law fraud claims for failure to plead with particularity).

DATED this 21st day of August, 2006.

BY THE COURT


Hon. Dee Benson
United States District Court

APPROVED AS TO FORM:

RAY QUINNEY & NEBEKER P.C.

/s/ Keith A. Kelly
Jonathan A. Dibble
Keith A. Kelly

Attorneys for Defendant Michael Jensen

JENSON, STAVROS & GUELKER

Gary R. Guelker
Janet I. Jenson
Gary R. Guelker

Attorneys for Defendants Davis Surgical Center, LLC, Mark Bitner, Robert Sorensen, Craig Hall, Brian Richards, John Burrell, Lamont Ericson, and Mark Hall

/s/ Kenneth D. Lougee
Kenneth D. Lougee

Attorneys for Plaintiff Lane F. Smith

885956

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2006, I sent via email and United States mail, postage prepaid, the foregoing form of ORDER (a) DISMISSING ALL CLAIMS AGAINST INDIVIDUAL DEFENDANTS, AND (b) DISMISSING ALL FRAUD CLAIMS to the following:

Janet I. Jenson
Gary R. Guelker
JENSON, STAVROS & GUELKER
350 South 400 East, Suite 201
Salt Lake City, Utah 84111

Kenneth Lougee
9490 South 300 East
Sandy, Utah 84070

DATED this 3rd day of August, 2006

RAY QUINNEY & NEBEKER P.C.

/s/ Keith A. Kelly
Jonathan A. Dibble
Keith A. Kelly

Attorneys for Defendant Michael Jensen

885956

United States District Court

Northern Division for the District of Utah

FILED IN UNITED STATES
COURT DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER
DEPUTY CLERK

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CURTIS WILLIAMS

v.

BRAD SLATER et al.

Judge Ted Stewart

DECK TYPE: Civil

DATE STAMP: 08/22/2006 @ 10:51:18

CASE NUMBER: 1:06CV00095 TS

Having considered the application to proceed without prepayment of fees under 28 U.S.C. 1915;

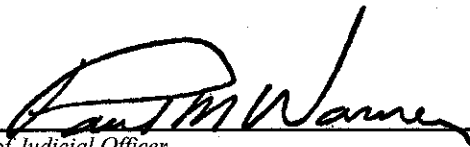
IT IS ORDERED that the application is:

☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ DENIED, for the following reasons:

ENTER this 10th day of August, 20 06.



Signature of Judicial Officer

U.S. Magistrate Judge

Name and Title of Judicial Officer

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KRAIG LEGRAND IVERSON,

Defendant.

ORDER OF RECUSAL

Case No. 2:02 CR 00774-001 W

Judge Paul G. Cassell

DECK TYPE: Criminal

DATE STAMP: 08/22/2006 @ 11:27:10

CASE NUMBER: 2:02CR00774 PGC

I recuse myself in this criminal case, and ask that the appropriate reassignment
card be drawn by the clerk's office.

Dated this 22nd day of August, 2006.

BY THE COURT:



David K. Winder
Senior U. S. District Judge

RECEIVED

AUG 21 2006

OFFICE OF
JUDGE TENA CAMPBELL

Gifford W. Price, Esq. (Bar No. 2647)
Jeffrey R. Olsen (Bar No. 9079)
MACKEY PRICE THOMPSON & OSTLER
350 American Plaza II
57 West 200 South
Salt Lake City, UT 84101
Phone: (801) 575-5000

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

Attorneys for Defendant Patrick M. Brody

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MERRILL SCOTT & ASSOCIATES, LTD.,
MERRILL SCOTT & ASSOCIATES, INC.,
PHOENIX OVERSEAS ADVISERS, LTD.,
PATRICK M. BRODY, DAVID E. ROSS II,
AND MICHAEL G. LICOPANTIS,

Defendants

ORDER

Civil No. 2:02 CV 0039 TC

Judge: Tena Campbell
Magistrate Judge David Nuffer

Based on stipulation of the parties and good cause appearing,

IT IS HEREBY ORDERED that Defendant Patrick M. Brody may have to and including Friday, September 8th 2006 in which to file his Memorandum in Opposition to the Motion for Summary Judgement filed by the Plaintiff originally on or about June 1, 2006.

DATED this 21 day of August, 2006.

BY THE COURT

By: Tena Campbell
Honorable Tena Campbell
United States District Court Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

MITCHEL T. RICE, No. 6022
MORGAN, MINNOCK, RICE & JAMES, L.C.
Kearns Building, Eighth Floor
136 South Main Street
Salt Lake City, Utah 84101
Telephone: (801) 531-7888
Fax number: (801) 531-9732

Attorneys for Defendant Wal-Mart Stores, Inc.

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF UTAH, CENTRAL DIVISION

DEBORAH STEED and PAUL STEED,	:	ORDER DENYING PLAINTIFFS'
husband and wife,	:	MOTION FOR REVIEW OF
	:	DEFENDANT'S REQUESTED
Plaintiffs,	:	TAXABLE COSTS AND ADOPTING THE
	:	CHIEF DEPUTY CLERK'S TAXATION
vs.	:	OF COSTS
	:	
WAL-MART STORES, INC.,	:	Case No. 2:03CV00814 DB
	:	Judge: Dee Benson
Defendant.	:	

This matter is before the Court on the Motion for Review of Defendant's Requested Taxable Costs of Deborah and Paul Steed, Plaintiffs in the above-entitled action, with Jeffrey R. Oritt, Thomas J. Burns, and David E. Comstock appearing as Attorneys for Plaintiffs, and Mitchel T. Rice appearing as Attorney for Defendant; and, after reading Plaintiffs' Motion for Review of Defendant's Requested Taxable Costs, the Memoranda in Support thereof, and Defendant's Memorandum in Opposition thereto, the Court hereby orders as follows:

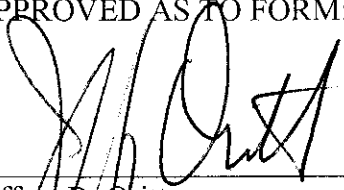
1. The Court finds that the Chief Deputy Clerk appropriately calculated costs in her Taxation of Costs dated March 3, 2006.
2. The Court concludes that the Chief Deputy Clerk correctly held that deposition costs are appropriately allowed if Counsel considers them to be reasonably necessary at the time the deposition was taken, not whether they were actually used at trial.
3. Based on the reasons cited above, and the reasons set forth in Defendant's Memorandum in Opposition to Plaintiffs' Motion for Review of Defendant's Requested Taxable Costs, the Court denies Plaintiffs' Motion for Review of Defendant's Requested Taxable Costs.
4. The Court hereby adopts the Chief Deputy Clerk's taxation of costs in the amount of \$5,531.14 as set forth in her Taxation of Costs dated March 3, 2006.

DATED this 22nd day of August, 2006.



Honorable Dee Benson

APPROVED AS TO FORM:



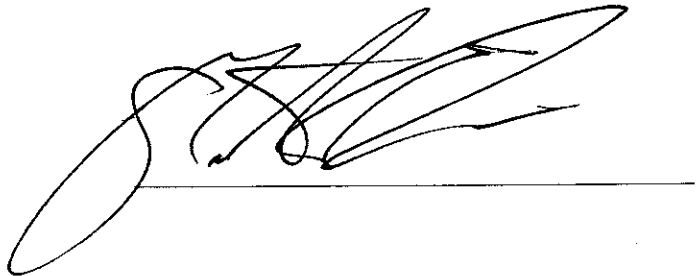
Jeffrey R. Oritt
Attorneys for Plaintiffs

CERTIFICATE OF DELIVERY

I do hereby certify that the ORDER DENYING PLAINTIFFS' MOTION FOR REVIEW OF DEFENDANT'S REQUESTED TAXABLE COSTS AND ADOPTING CHIEF DEPUTY CLERK'S TAXATION OF COSTS was delivered via U.S. Mail, on this 17 day of August, 2006, to the following:

Jeffrey R. Oritt
COHNE, RAPPAPORT & SEGAL, P.C.
P.O. Box 11008
Salt Lake City, UT 84147-0008

David E. Comstock
COMSTOCK & BUSH
P.O. Box 2774
Boise, ID 83701-2774

A handwritten signature in black ink, appearing to read "David E. Comstock", is written over a horizontal line.

AUG 21 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SCOTT B. ATWOOD, Plaintiff, vs. SWIRE COCA-COLA USA, Defendant.	TRIAL ORDER Case No. 2:03 CV 1014 TC
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The final pretrial conference in this matter is scheduled for September 14, 2006, at 3:00 p.m.

This case is set for a one-day bench trial to begin on September 22, 2006, at 8:30 a.m. The attorneys are expected to appear in chambers at 8:00 a.m. on the first day of trial for a brief pre-trial meeting.

Counsel are instructed as follows:

1. Court-Imposed Deadlines.

The deadlines described in this order cannot be modified or waived in any way by a stipulation of the parties. Any party that believes an extension of time is necessary **must** make an appropriate motion to the court.

2. Pretrial Order.

At the pretrial conference, plaintiff is to file a joint proposed pretrial order which has been approved by all counsel. The pretrial order should conform generally to the requirements of DuCivR 16-1(3) and to the approved form of pretrial order which is reproduced as Appendix IV to the Rules of Practice for the U.S. District Court for the District of Utah.

3. Jury Instructions

The court has adopted its own standard general jury instructions, copies of which may be obtained from the court prior to trial. The procedure for submitting proposed jury instructions is as follows:

(a) The parties must serve their proposed jury instructions on each other **at least ten business days before trial**. The parties should then confer in order to agree on a single set of instructions to the extent possible.

(b) If the parties cannot agree upon one complete set of final instructions, they may submit separately those instructions that are not agreed upon. However, it is not enough for the parties to merely agree upon the general instructions and then each submit their own set of substantive instructions. The court expects the parties to meet, confer, and agree upon the wording of the substantive instructions for the case.

(c) The joint proposed instructions (along with the proposed instructions upon which the parties have been unable to agree) must be filed with the court **at least five business days before trial**. All proposed jury instructions must be in the following format:

(i) An original and one copy of each instruction, labeled and numbered at the top center of the page to identify the party submitting the instruction (e.g., "Joint Instruction No. 1" or "Plaintiff's Instruction No. 1"), and including citation to the authority that forms the basis for it.

(ii) A 3.5" high density computer diskette containing the proposed instructions (and any proposed special verdict form), without citation to authority, formatted for the most current version of WordPerfect. Any party unable to comply with this requirement must contact the court to make alternative arrangements.

(d) Each party should file its objections, if any, to jury instructions proposed by any other party **no later than two business days before trial**. Any such objections must recite the proposed instruction in its entirety and specifically highlight the objectionable language contained therein. The objection should contain both a concise argument why the proposed language is improper and citation to relevant legal authority. Where applicable, the objecting party **must** submit, in conformity with paragraph 3(c)(i) - (ii) above, an alternative instruction covering the pertinent subject matter or principle of law. Any party

may, if it chooses, submit a brief written reply in support of its proposed instructions **on the day of trial**.

(e) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper and will not be given.

(f) Modified versions of statutory or other form jury instructions (e.g., Devitt & Blackmar) are acceptable. A modified jury instruction must, however, identify the exact nature of the modification made to the form instruction and cite the court to authority, if any, supporting such a modification.

4. Special Verdict Form

The procedure outlined for proposed jury instructions will also apply to special verdict forms.

5. Requests for Voir Dire Examination of the Venire.

The parties may request that, in addition to its usual questions, the court ask additional specific questions to the jury panel. Any such request should be submitted in writing to the court and served upon opposing counsel **at least ten business days before trial**.

6. Findings of Fact and Conclusions of Law

At the conclusion of all non-jury trials, counsel for each party will be instructed to file with the court proposed findings of fact and conclusions of law. The date of submission will vary, depending upon the need for and availability of a transcript of trial and the schedule of court and counsel. Findings of fact should be supported, if possible, by reference to the record. For that reason, the parties are urged to make arrangements with Mr. Raymond Fenlon, the Court Reporter, for the preparation of a trial transcript. Conclusions of law must be accompanied by citations to supporting legal authority.

As with proposed jury instructions and special verdict forms, the proposed findings of fact and conclusions of law should be submitted to chambers both in hard copy and electronic format using WordPerfect .

7. Motions in Limine

All motions in limine are to be filed with the court at **at least five business days before trial**, unless otherwise ordered by the court.

8. Exhibit Lists/Marking Exhibits

All parties are required to prepare an exhibit list for the court's use at trial. The list contained in the pretrial order will not be sufficient; a separate list must be prepared. Plaintiffs should list their exhibits by number; defendants should list their exhibits by letter. Standard forms for exhibit lists are available at the clerk's office, and questions regarding the preparation of these lists may be directed to the courtroom deputy, Mary Jane McNamee, at 524-6116. All parties are required to pre-mark their exhibits to avoid taking up court time during trial for such purposes.

9. In Case of Settlement

Pursuant to DUCivR 41-1, the court will tax all jury costs incurred as a result of the parties' failure to give the court adequate notice of settlement. Leaving a message on an answering machine or sending a notice by fax is not considered sufficient notice to the court. If the case is settled, counsel must advise the jury administrator or a member of the court's staff by means of a personal visit or by person-to-person telephonic communication.

10. Courtroom Conduct

In addition to the rules outlined in DUCivR 43-1, the court has established the following ground rules for the conduct of counsel at trial:

- (a) Please be on time for each court session. In most cases, trial will be conducted from 8:45 a.m. until 1:45 p.m., with two short (fifteen minute) breaks. Trial engagements take precedence over any other business. If you have matters in other courtrooms, arrange in advance to have them continued or have an associate handle them for you.
- (b) Stand as court is opened, recessed or adjourned.
- (c) Stand when the jury enters or retires from the courtroom.
- (d) Stand when addressing, or being addressed by, the court.
- (e) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court. For example, the following objections would be proper: "Objection . . . hearsay." or "Objection . . . foundation." The following objection would be improper unless the court had requested further argument: "Objection, there has been no foundation laid for the expert's opinion

and this testimony is inherently unreliable.”

(f) Sidebar conferences will not be allowed except in **extraordinary** circumstances. If a sidebar conference is held, the court will, if possible, inform the jury of the substance of the sidebar argument. Most matters requiring argument should be raised during recess.

(g) Counsel need not ask permission to approach a witness in order to **briefly** hand the witness a document or exhibit.

(h) Do not greet or introduce yourself to witnesses. For example, “Good Morning, Mr. Witness. I represent the plaintiff in this case” is improper. Begin your examination without preliminaries.

(i) Address all remarks to the court, not to opposing counsel, and do not make disparaging or acrimonious remarks toward opposing counsel or witnesses. Counsel shall instruct all persons at counsel table that gestures, facial expressions, audible comments, or any other manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

(j) Refer to all persons, including witnesses, other counsel, and parties, by their surnames and NOT by their first or given names.

(k) Only one attorney for each party shall examine, or cross-examine, each witness. The attorney stating objections during direct examination shall be the attorney recognized for cross examination.

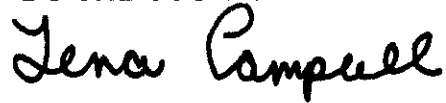
(l) Offers of, or requests for, a stipulation shall be made out of the hearing of the jury.

(m) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue. The following examples would be improper: “I believe the witness was telling the truth” or “I found the testimony credible.”

(n) When not taking testimony, counsel will remain seated at counsel table throughout the trial unless it is necessary to move to see a witness. Absent an emergency, do not leave the courtroom while court is in session. If you must leave the courtroom, you do not need to ask the court's permission. Do not confer with or visit with anyone in the spectator section while court is in session.

DATED this 21st day of August, 2006.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

James D. Garrett, #6091
GARRETT & GARRETT
2091 East 1300 South, Suite 201
Salt Lake City, Utah 84108
Telephone: (801) 581-1144

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER TO CONTINUE SENTENCING
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
DIANE C. CHRISTENSEN, et. al.,	:	Case No.: 2:04CR00040DS
	:	Magistrate: Brooke C. Wells
Defendant.	:	Judge: David Sam

Based on the motion filed by Defendants and good cause appearing:

IT IS HEREBY ORDERED that sentencing set for August 23, 2006 is hereby continued
until September 21, 2006 at the hour of 3:30^{P.}m. for both Defendants.

DATED this 22 day of August, 2006.



THE HONORABLE DAVID SAM

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES DELOST TRINNAMAN,

Defendant.

ORDER OF RECUSAL

Case No. 2:04-CR-185 W

Judge Ted Stewart

DECK TYPE: Criminal

DATE STAMP: 08/22/2006 @ 11:27:27

CASE NUMBER: 2:04CR00185 TS

I recuse myself in this criminal case, and ask that the appropriate reassignment card be drawn by the clerk's office.

Dated this 22nd day of August, 2006.

BY THE COURT:



David K. Winder
Senior U. S. District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

Terry L. Wade (3882)
Michael F. Leavitt (9476)
DURHAM JONES & PINEGAR
Attorneys for Plaintiff
192 East 200 North, 3rd Floor
St. George, Utah 84770
Telephone: (435) 674-0400
Facsimile: (435) 628-1610
Attorneys for Plaintiff

f:\sgdocs\lwade\staker & parsons 50041\10 mcghee-symack\ordismiss 102605 ml.doc

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES, for the use of STAKER &
PARSONS COMPANIES, a Utah corporation,
dba WESTERN ROCK PRODUCTS,

Plaintiff,

vs.

SYMACK, INC., a North Carolina
corporation; MCGHEE CONSTRUCTION,
INC., an Oklahoma corporation;
HARLEYSVILLE MUTUAL INSURANCE
CO., a Pennsylvania corporation; and JOHN
DOES I-X,

Defendants.

ORDER OF DISMISSAL

Civil No. 2:04CV00501 DB

Judge Dee Benson

The parties, having resolved the above-captioned matter, and for other good cause
appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this case be dismissed
with prejudice and on the merits. Each party shall pay its own attorney's fees and costs.

DATED THIS 22nd day of August 2006.



JUDGE DEE BENSON
District Court Judge

Approved as to form:

BOSTWICK & PRICE

Jeffrey R. Price
Christopher C. Hill
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing to be mailed under first-class United State postal delivery, postage prepaid, on the ____ day of _____ 2006, to the following:

Jeffrey R. Price
Christopher C. Hill
BOSTWICK & PRICE, P.C.
139 East South Temple, Suite 320
Salt Lake City, UT 84111

RICHARD D. BISSELL (10339)
Assistant Utah Attorney General
MARK L. SHURTLEFF (4666)
Utah Attorney General
Attorney for Salt Lake Community College
160 East 300 South, Sixth Floor
P.O. Box 140856
Salt Lake City, Utah 84114-0856
Telephone: (801) 366-0100

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

JIHAD AL-ALI,

Plaintiff,

vs.

SALT LAKE COMMUNITY COLLEGE,

Defendant.

ORDER

Case No.2:04CV00547 DS

Judge David Sam

This matter, having been brought before the Court upon the various motions of the parties, the matter being set for the final Pretrial Conference on this 1st day of August 2006, and the Court having reviewed the record and being otherwise sufficiently advised, it is hereby ORDERED and ADJUDGED as follows:

1. The Plaintiff's Motion for Continuance of the Final Pretrial Conference and Hearing on the Defendant's Motions is GRANTED;
2. The final Pretrial Conference set for August 1, 2006 and the trial date scheduled on August 15, 2006 are hereby STRICKEN;

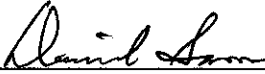
3. The Defendant's pending motions, namely the Defendant's Motion to Dismiss, Defendant's Motion to Disqualify the Law Firm of D. Bruce Oliver and Defendant's Motion to Strike the Response of D. Bruce Oliver to the Defendant's Motion to Disqualify are hereby STAYED pending the outcome of the Court's decision on the Motions for Summary Judgment to be filed by the parties and as herein described;

4. The Court shall accept the Plaintiff's Motion for Summary Judgment, the Memorandum accompanying said Motion in support of same, and the Plaintiff's Affidavit from Bruce Oliver on behalf of the Plaintiff;

5. The Defendant shall have thirty (30) days from the date of entry of this Order to oppose the Plaintiff's Motion for Summary Judgment; the Plaintiff shall then have ten days to reply to the Defendant's Memorandum in Opposition to Plaintiff's Motion for Summary Judgment after the service of the Defendant's Memorandum in Opposition.

6. The Defendant shall have thirty (30) days in which to file its own motion for summary judgment from the date of the entry of this Order; the Plaintiff shall then have thirty (30) days after service of Defendant's Motion for Summary Judgment to file his Memorandum opposing Defendant's Motion for Summary Judgment. The Defendant will then have ten days in which to reply to the Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment after the service of the Plaintiff's Memorandum Opposing Summary Judgment.

So ordered this 21st day of August 2006.



JUDGE DAVID SAM
United States District Court, District of Utah

APPROVED AS TO FORM:

/s/ D. Bruce Oliver
D. BRUCE OLIVER
Counsel for Plaintiff
*(Signed copy of document bearing signature is being maintained in the office of the
Filing Attorney)*

PREPARED BY:
TO BE ENTERED:

/s/ Richard D. Bissell
RICHARD D. BISSELL
Assistant Utah Attorney General
Attorney for Defendant

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARIO RAMOS-DURAN,

Defendant.

:
: ORDER GRANTING MOTION FOR
: EXTENSION OF TIME
:
: Case No. 2:04CV-00858DB
:

Good cause having been shown, the Motion of United States of America for an Extension of Time is granted. The United States Attorney's Office is hereby ORDERED to respond to Plaintiff's Motion to Vacate on or before October 20, 2006.

DATED this 22 day of August, 2006.

BY THE COURT:



DEE V. BENSON
United States District Court
Chief Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

Richard D. Burbidge (0492)
Jefferson W. Gross (8339)
Robert J. Shelby (8319)
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James E. Magleby (7247)
Christine T. Greenwood (8187)
MAGLEBY & GREENWOOD, P.C.
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Salt Lake City, Utah 84101
Telephone: (801) 359-9000
Facsimile: (801) 359-9011

Attorneys for Plaintiff The Carter-Reed Company, L.L.C.

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE CARTER-REED COMPANY, LLC,
a Utah limited liability company,

Plaintiff,

v.

THE FEDERAL TRADE COMMISSION,
an agency of the federal government,

Defendant.

**ORDER OF DISMISSAL WITHOUT
PREJUDICE**

Civil No. 2:04-CV-01142 DB

Hon. Dee Benson

Pursuant to the terms of an agreement between the parties, Plaintiff The Carter-Reed Company moves the Court for an Order dismissing without prejudice the claims asserted in this action.

Having reviewed Plaintiff's motion, and for good cause showing, it is HEREBY ORDERED that all claims herein asserted are dismissed without prejudice, each party to bear its own attorneys' fees and costs.

DATED this 21st day of August, 2006.

BY THE COURT:



Honorable Dee Benson
United States District Court Judge

APPROVED AS TO FORM AND CONTENT:

DATED this 18th day of August, 2006.

BURBIDGE & MITCHELL

/s/ Robert J. Shelby
Richard D. Burbidge
Robert J. Shelby
Attorneys for Plaintiff The Carter-Reed Company,
LLC

CERTIFICATE OF SERVICE

On the date below written, the undersigned hereby certifies that a true and correct copy of the foregoing **ORDER OF DISMISSAL WITHOUT PREJUDICE** was delivered as indicated to:

VIA CM/ECF SYSTEM:

Paul M. Warner
Carlie Christensen
United States Attorney's Office
185 South State Street, Suite 400
Salt Lake City, Utah 84111

paul.warner@usdoj.gov
carlie.christensen@usdoj.gov

Attorneys for Defendant the Federal Trade
Commission

**VIA FIRST-CLASS MAIL POSTAGE
PRE-PAID:**

Lawrence DeMille-Wagman
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Attorneys for Defendant the Federal Trade
Commission

DATED this the 18th day of August, 2005.

/s/ Dana Marie Schanuel

HOLME ROBERTS & OWEN LLP
George M. Haley #1302
David R. Parkinson #8258
299 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2263
Telephone: (801) 521-5800
Facsimile: (801) 521-9639

Attorneys for Plaintiff

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY
DEPUTY CLERK

IN THE UNITED STATES JUDICIAL DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

KLEIN-BECKER usa, LLC, a Utah limited
liability company,

Plaintiff,

vs.

PRODUCT QUEST MANUFACTURING,
INC., a Florida corporation, and
VITALSCIENCE, CORP., a Canadian
corporation,

Defendants.

pl
~~PROPOSED~~ ORDER OF DISMISSAL
WITH PREJUDICE

Case No. 2:04CV1146 DS

Honorable David Sam

The Court, having considered the Stipulation of Dismissal of the parties, and good cause appearing, hereby dismisses this action with prejudice.

Each party shall bear their own respective costs and attorney's fees incurred in the prosecution and defense of this action. The Court shall retain jurisdiction over the parties for any issues arising out of or relating to the settlement.

DATED this 21st day of July, 2006.

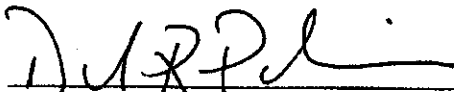
BY THE COURT:



Honorable David Sam
District Court Judge

APPROVED AS TO FORM:

HOLME ROBERTS & OWEN LLP



George M. Haley
David R. Parkinson
Attorneys for Plaintiff

KIRTON & MCCONKIE



Todd E. Zenger
Attorney for Defendant VitalScience

ROETZEL & ANDRESS, LPA



Richard S. Mitchell
Attorney for Defendant Product Quest
Manufacturing, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN EDGAR ZENOR,

Defendant.

Case #: 2:05CR00236

JUDGMENT OF FORFEITURE

JUDGE DALE A KIMBALL

IT IS HEREBY ORDERED that:

1. As a result of a plea of guilty to Count 1 and Count 2 of the Indictment for which the government sought forfeiture pursuant to 18 U.S.C. § 924(d)(1), the defendant Alan Edgar Zenor shall forfeit to the United States all property, real or personal, that is derived from, used, or intended to be used in violation of 18 U.S.C. § 922, including but not limited to:

- Jennings 9mm Handgun, Serial # 1480110

2. The Court has determined that based on a guilty plea of Possession of a Firearm in Furtherance of Drug Trafficking, that the above-named property is subject to forfeiture, that the defendant had an interest in the property, and that the government has established the requisite nexus between such property and such offense.

IT IS FURTHER ORDERED:

3. Pursuant to Fed. R. Crim. P. 32.2(b)(3), the Preliminary Order of Forfeiture is made final as to the defendant and the Judgment of Forfeiture shall be made part of the sentence and included in the judgment.

4. Any petition filed by a third party asserting an interest in the subject property shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's acquisition of the right, title, or interest in the subject property, any additional facts supporting the petitioners claim and relief sought.

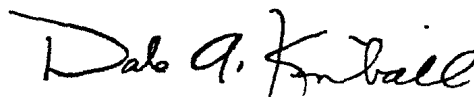
5. After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Criminal Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

6. The United States shall have clear title to the subject property following the Court's disposition of all third party interests, or, if none, following the expiration of the period provided in 21 U.S.C. § 853 which is incorporated by 18 U.S.C. § 982(b) for the filing of third party petitions.

7. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

Dated this 22nd day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style.

DALE A. KIMBALL, Judge
United States District Court

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 18 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA)

Plaintiff,)

Nicholaus Lueck)

Defendant)

Docket No.: 2:05-CR-00308-001-TC

CONSENT TO MODIFY CONDITIONS OF RELEASE

I, Nicholaus Lueck, have discussed with Pretrial Services Officer Amie Williamson, modification of my release conditions as follows:

- Participate in mental health treatment as recommended by Pretrial Services

I consent to this modification of my release conditions and agree to abide by this modification.

Nicholaus Lueck
Defendant

Amie Williamson
Pretrial Services Officer

8-11-06
Date

7/25/06
Date

I have reviewed the conditions with my client and concur that this modification is appropriate.

[Signature]
Defense Counsel

8/16/06
Date

ORDER OF THE COURT

☒ The above modification of conditions of release is ordered, to be effective on 8/16/06, 2006.

☐ The above modification of conditions of release is not ordered.

[Signature]
Honorable David O. Nuffer

United States Magistrate Judge

8/16/06
Date

BRETT L. TOLMAN, United States Attorney, (#8821)
LANA TAYLOR, Special Assistant United States Attorney (#7642)
Attorneys for the United States of America
348 East South Temple
Salt Lake City, UT 84111
Telephone: (801)524-4156

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DELMAR LAKE,

Defendant.

**ORDER FOR WRIT OF HABEAS
CORPUS
AD TESTIFICANDUM**

Case No. 2:05CR443 DAK

Judge Dale A. Kimball

TO: THE UNITED STATES MARSHAL FOR THE DISTRICT OF UTAH, OR TO
ANY OTHER UNITED STATES MARSHAL, AND TO ANY AUTHORIZED
OFFICER IN WHOSE CUSTODY THE WITNESS MAY BE HELD:

GREETINGS:

You are directed to bring **NICK GALANIS**, who is confined at the Iron County Jail,
before Judge Dale A. Kimball, United States District Court, 350 South Main Street, Salt Lake
City, Utah, on **Tuesday, August 29, 2006, at 8:30 a.m.**, for the purpose of testifying in the
above-entitled matter.

You are further directed to serve a certified copy of this Writ on the Warden, Sheriff, Superintendent, or custodian of the institution in which said witness is confined, to hold said witness in your custody pending completion of his testimony, and thereafter to return him to the institution where he is now confined.

Dated this 22nd day of August, 2006.

A handwritten signature in black ink, reading "Dale A. Kimball". The signature is written in a cursive, flowing style. The first name "Dale" is written with a large, prominent "D". The middle initial "A." is written in a smaller, more compact script. The last name "Kimball" is written with a large, prominent "K" and a long, sweeping tail that extends to the right.

JUDGE DALE A. KIMBALL
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEREMY ARRINGTON,

Defendant.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:05-CR-500


Judge Dee Benson

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Brooke C. Wells on June 12, 2006 recommending that Defendant's Motion to Suppress be DENIED.

The parties were notified by mail of their right to file objections to the Report and Recommendation. On July 26, 2006, Defendant filed a timely response, objecting to the magistrate judge's conclusion that the police appropriately relied on consent from Defendant's wife to search a motel room rented by Defendant and his wife, and that the evidence found in the motel room should not be suppressed. Having reviewed all relevant materials, including the parties' briefs and the reasoning set forth in the magistrate judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation and DENIES Defendant's Motion to Suppress.

IT IS SO ORDERED.

DATED this 21st day of August, 2006.


Dee Benson
United States District Judge

TODD UTZINGER (6047)
Attorney for the Defendant
144 North 100 West
Bountiful, Utah 84010
Telephone: (801) 397-3131
Facsimile: (801) 397-3139


UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,)	
	)	ORDER TO CONTINUE
Plaintiff,	)	SENTENCING HEARING
)	
vs.	)	Case No. 2:05-CR-00692 DAK
)	
JOSE D. MARTINEZ-MARTINEZ,	)	Honorable Dale A. Kimball
)	
Defendant.)	

This matter is before the Court on defendant's motion to continue sentencing hearing for a date and time more convenient for all parties.

Based on the stipulation of the parties and good cause shown, defendant's motion is granted. The parties are hereby ordered to promptly contact the Court to reset the matter for sentencing.

SO ORDERED this 22nd day of August, 2006.



THE HONORABLE DALE A. KIMBALL
Federal District Court Judge, District of Utah

UNITED STATES DISTRICT COURT

CENTRAL

District of

UTAH

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE

Pedro Godinez-Martha

Case Number: UTDX 205CR000925-001

USM Number: 13185-081

Robert K. Hunt
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8 USC § 1326	Reentry of Previously Removed Alien	10/30/2005	1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 16, 2006

Date of Imposition of Judgment

Signature of Judge

J. Thomas Greene
Name and Title of Judge

U. S. District Judge

Date

August 18, 2006

DEFENDANT:
CASE NUMBER:

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months

✓ The court makes the following recommendations to the Bureau of Prisons:
FCI near Phoenix, AZ & facility with appropriate lower rating as indicated by the record.

✓ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ a _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT:
CASE NUMBER:

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

30 months

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ✓ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ✓ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT:
CASE NUMBER:

SPECIAL CONDITIONS OF SUPERVISION

1. Defendant shall not illegally reenter the U.S. If the defendant returns to the U.S. during the period of supervision, he is instructed to contact the U.S. Probation Office in the District of Utah, within

DEFENDANT:
CASE NUMBER:

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$ None	\$ None

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ 0	\$ 0
--------	------	------

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT:
CASE NUMBER:

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages 7 - 10

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

REID M. JENSEN,

Plaintiff,

vs.

UNIVERSITY PROPERTIES, INC.,

Defendant.

ORDER

Case No. 2:05-CV-172 TC

A three-day bench trial in this case is scheduled to begin next week on Monday, August 28, 2006. On August 17, 2006, Defendant University Properties, Inc. (UPI) filed a Motion to Continue Trial Date. UPI seeks a three to six month continuance. The reason given is that UPI's President and one its key witnesses, Richard Knapp, was arrested on August 16, 2006, and intends to begin drug treatment and rehabilitation.

UPI does not present evidence that Mr. Knapp is actually unavailable to testify during the August 28-30, 2006 trial. Accordingly, UPI's Motion to Continue is DENIED.

IT IS SO ORDERED this 22nd day of August, 2006.

BY THE COURT:



TENA CAMPBELL
United States District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

Dale J. Lambert, #1871
Christensen & Jensen, P.C.
Attorneys for Defendants
50 South Main, Suite 1500
Salt Lake City, UT 84144
Telephone: (801) 355-3431

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

HARTFORD INSURANCE COMPANY)
OF THE MIDWEST, a foreign corporation,)
Individually, and as subrogee for Kenley)
Dalton and Beth Dalton, married individuals)

Plaintiff,)

vs.)

ECOWATER SYSTEMS, a foreign)
corporation; JOHN and JANE DOES I-X;)
BLACK PARTNER-SHIPS I-X; and)
WHITE CORPORATIONS)
I-X,)

Defendants.)

ORDER OF DISMISSAL

Civil No.: 2:05-cv-366

Honorable: Judge Sam

Based on the joint Stipulation for Dismissal on file herein, and good cause appearing
therefore, it is hereby

ORDERED that plaintiff's claims be and hereby are dismissed, with prejudice, each
of the parties to bear his or her own attorney's fees and costs of court incurred herein.

Dated this 21st day of August, 2006.

BY THE COURT:



The Honorable David Sam
United States District Court Judge

APPROVED AS TO FORM:

BAUMAN LOEWE WITT & MAXWELL

/s/ Kenneth W. Maxwell

Kenneth W. Maxwell
Counsel for Plaintiff

APPROVED AS TO FORM:

CHRISTENSEN & JENSEN, P.C.

/s/ Dale J. Lambert

Dale J. Lambert
Counsel for Defendant

J. Craig Smith (#4143)
R. Christopher Preston (#9195)
SMITH HARTVIGSEN, PLLC
215 South State Street, Suite 650
Salt Lake City, Utah 84111
Telephone (801) 413-1600
Facsimile (801) 413-1620
Attorneys for Defendant/Third-Party Plaintiff

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 21 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

and

UTAH DAIRYMEN'S ASSOCIATION,
GIBBONS BROTHERS DAIRY
LIMITED, and B-BAR DAIRY LLC,

Intervenor-Plaintiffs

vs.

COUNTRY CLASSIC DAIRIES, INC.
doing business as DARIGOLD FARMS
OF MONTANA, a Montana Corporation
Defendant.

**ORDER EXTENDING
ADDITIONAL TIME TO FILE
MEMORANDA IN OPPOSITION
TO PLAINTIFF'S AND
INTERVENOR-PLAINTIFFS'
MOTIONS FOR
SUMMARY JUDGMENT**


Case No. 2:05cv00499-DS

District Judge: David Sam

Pursuant to the stipulation of all of the parties and for good cause shown, it is

HEREBY ORDERED THAT Defendant Country Classic Dairies, Inc., may have
until Friday, August 25, 2006, in which to file its responses to Plaintiff's Motion for
Summary Judgment and to Intervenor-Plaintiffs' Motion for Summary Judgment.

DATED this 21st day of August, 2006.



The Honorable David Sam
United States District Judge

AUG 17 2006

U.S. DISTRICT COURT
FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

~~AUG 22 2006~~

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

v.

: ORDER FOR PRO HAC VICE ADMISSION

: Case Number 2:05 CV 00550 DS

Dated: this 22nd day of August, 2006.

David L. Sarno
U.S. District Judge

FEE PAID

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

CHRISTOPHER HARRIS,

Plaintiff,

vs.

**COPPER HILLS YOUTH CENTER and
KIDS BEHAVIORAL HEALTH OF
UTAH,**

Defendants.

ORDER

Case No. 2:05-cv-00672-DB-PMW

Judge Dee Benson

Magistrate Judge Paul M. Warner

This matter was referred to Magistrate Judge Paul M. Warner by District Judge Dee Benson pursuant to 28 U.S.C. § 636(b)(1)(A). Before the court are Christopher Harris’s (“Plaintiff”) motion to compel¹ and motion for reasonable expenses incurred in bringing the motion to compel.² The court has carefully reviewed the written memoranda submitted by the parties. Pursuant to local rule 7-1(f), the court has determined that oral argument would not be helpful or necessary and will rule on the motions on the basis of the written memoranda. *See* DUCivR 7-1(f).

¹ Docket no. 25.

² Docket no. 27.

I. Plaintiff's Motion to Compel

In his motion to compel, Plaintiff advances the general argument that Copper Hills Youth Center and Kids Behavioral Health of Utah (collectively, "Defendants") waived their objections to Plaintiff's First Discovery Set by failing to serve their responses in a timely fashion; accordingly, Plaintiff asserts that the court should overrule all of Defendants' objections to Plaintiff's First Discovery Set. In the alternative, Plaintiff presents specific arguments concerning the individual interrogatories and requests for production that he believes require a substantive response from Defendants. The court will address Plaintiff's general argument, followed by his specific arguments.

A. Timeliness of Defendants' Responses

Plaintiff served his First Discovery Set on Defendants on March 3, 2006. Plaintiff's First Discovery Set contained both interrogatories and requests for production of documents. The opening paragraph of Plaintiff's First Discovery Set requested that Defendants respond to both the interrogatories and the requests for production within thirty days, in accordance with rules 33 and 34 of the Federal Rules of Civil Procedure. Because Plaintiff's First Discovery Set was served on Defendants by mail, an additional three days were added to this thirty-day deadline, *see* Fed. R. Civ. P. 6(e), resulting in a response deadline of April 5, 2006. However, later in Plaintiff's First Discovery Set, Plaintiff requested a response deadline of April 10, 2006, for Defendants' responses to the requests for production of documents.

Defendants served their responses to both the interrogatories and requests for production on Plaintiff on April 7. Based upon what appears to be a miscommunication between Plaintiff's

counsel and Defendants' counsel, there is a dispute about whether these responses were timely. Plaintiff's counsel maintains that Defendants' responses were two days late and, accordingly, requests that the court overrule all of Defendants' objections contained in their responses. In contrast, Defendants' counsel asserts that Plaintiff's counsel verbally agreed to a two-day extension of the April 5 response deadline and, therefore, Defendants' responses were timely.

Plaintiff's counsel asserts that Defendants' counsel telephoned him on April 5, 2006, to indicate that the documents would not be available that day—despite the document production deadline of April 10—but that they would be available on April 7. Plaintiff's counsel maintains that Defendants' counsel did not mention the answers to the interrogatories or request an extension of the April 5 deadline for those answers. Plaintiff's counsel also asserts that if Defendants' counsel had requested such an extension, Plaintiff's counsel would have agreed to it and required that Defendants' counsel confirm it in writing.

Defendants' counsel maintains that the purpose of his April 5 telephone call to Plaintiff's counsel was to specifically inquire whether Plaintiff's counsel would agree (1) to extend the delivery deadline for the answers to the interrogatories to April 7 and (2) to allow Defendants to deliver the documents in response to the requests for production on April 7, prior to the stated April 10 deadline. Defendants' counsel asserts that Plaintiff's counsel agreed to both of these requests. Defendants' counsel also asserts that Plaintiff's counsel never indicated that Defendants' responses would be viewed as untimely or that it was necessary for the parties to reflect their agreement in writing.

The court is not persuaded by Plaintiff's argument. In general, an overly strict application of the deadlines set forth in the Federal Rules of Civil Procedure does not inure to the benefit of any party involved in a civil suit. If parties were to file a motion to compel every time a response was received one or two days beyond a particular deadline, the courts would be inundated with such motions.

Further, local rule 37-1 provides that an attorney filing a motion to compel must also file "a statement showing that the attorney making the motion has made a *reasonable* effort to reach agreement with opposing attorneys on the matters set forth in the motion." DUCivR 37-1(a) (emphasis added). Although Plaintiff's counsel has included such a statement in the memorandum accompanying his motion, it does not appear that Plaintiff's counsel has acted reasonably in attempting to reach agreement with Defendants' counsel on this issue. Given that there was clearly a misunderstanding between counsel concerning their April 5 telephone conversation, Plaintiff's counsel's inflexibility on the response deadline for the First Discovery Set does not appear to be reasonable. In essence, it appears to the court that because Plaintiff's counsel is dissatisfied with Defendants' objections to the First Discovery Set, he is attempting to rely upon a technicality as way to force Defendants to respond to the First Discovery Set. The court will not sanction this as a reasonable form of practice. Accordingly, Plaintiff's motion to overrule all of Defendants' objections to Plaintiff's First Discovery Set is DENIED.

B. Employee Names and Contact Information

Interrogatory 1.a. from Plaintiff's First Discovery Set sought the names, business and residential addresses, and business and residential telephone numbers of all individuals employed by Defendants during the time Plaintiff worked at Copper Hills Youth Center. Defendants objected to this interrogatory on the bases that it sought information that was not relevant, was too broad, and violated the privacy interests of Defendants' current and former employees. Plaintiff argues that Defendants should be required to produce this information because it is "reasonably calculated to lead to the discovery of admissible evidence." Fed. R. Civ. P. 26(b)(1).

Given the broad relevancy standard under rule 26(b)(1), the court has determined that a portion of the information requested by the interrogatory is discoverable. However, because the court shares some of Defendants' concerns about the interrogatory as it relates to the privacy interests of Defendants' current and former employees, the court will require Defendants to produce only the names and business contact information (i.e., not residential contact information) for the individuals identified in the interrogatory. For any of these individuals who are no longer under Defendants' employ, Defendants will be required to produce only the names for those individuals. Given Defendants' claim that they employed approximately 300 individuals during Plaintiff's employment at Copper Hills Youth Center, compiling and producing this information should not be unduly burdensome.

Accordingly, Plaintiff's motion to compel Defendants to answer Interrogatory 1.a. from Plaintiff's First Discovery Set is GRANTED IN PART and DENIED IN PART. Defendants shall produce the names and business contact information, but not any residential contact

information, for the individuals identified in the interrogatory. For those individuals no longer under Defendants' employ, Defendants are required to produce only the names for those individuals.

C. Financial Information and Records

Two interrogatories (Interrogatories 14 and 16) and two requests for production (Document Requests 28 and 29) from Plaintiff's First Discovery Set sought information concerning Defendants' net worth, gross income, net income, tax returns, and financial statements. Plaintiff claims that this information is relevant and discoverable because it relates to his potential claim for punitive damages.

At this point, it is not at all clear that Plaintiff will be entitled to punitive damages in this case. Accordingly, at this time, the court will not require Defendants to produce the confidential financial information sought by Interrogatories 14 and 16 and Document Requests 28 and 29. If it later becomes more clear that Plaintiff will be entitled to punitive damages, then Defendants could be required to produce the information sought. However, at this stage of the litigation, the court has concerns about whether such confidential and sensitive financial information will ever be discoverable. Therefore, Plaintiff's motion to compel Defendants to answer Interrogatories 14 and 16 and produce documents in response to Document Requests 28 and 29 is DENIED.

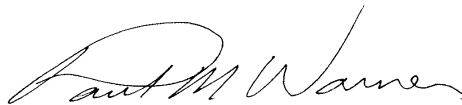
II. Plaintiff's Motion for Reasonable Expenses

In conjunction with his motion to compel, Plaintiff filed a motion for an award of reasonable expenses, including costs and attorney fees, incurred in bringing the motion to compel. The court has determined that Plaintiff's motion is without merit.

Rule 37(a)(4)(A) of the Federal Rules of Civil Procedure allows for an award of reasonable expenses incurred in bringing a motion to compel, but only “[i]f the motion is granted or if the disclosure or requested discovery is provided after the motion was filed.” Fed. R. Civ. P. 37(a)(4)(A). Because the court has denied the great majority of Plaintiff’s motion, the court has determined that an award of reasonable expenses under rule 37(a)(4)(A) is not in order. Further, because the court has also determined that Defendants’ objections to Plaintiff’s First Discovery Set were “substantially justified,” *id.*, Plaintiff is not entitled to an award of reasonable expenses under rule 37(a)(4)(A). Therefore, Plaintiff’s motion for reasonable expenses incurred in bringing his motion to compel is DENIED.

DATED this 22nd day of August, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Paul M. Warner", written in black ink.

PAUL M. WARNER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

BARBARA L. HENNAGIR,
Plaintiff,

v.

UTAH DEPARTMENT OF CORRECTIONS
and SCOTT CARVER
Defendants.

SCHEDULING ORDER AND
ORDER VACATING HEARING

Case No. 2:05CV01043 DAK

District Judge Dale A. Kimball

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for October 11, 2006, at 1:30 p.m. is VACATED.

ALL TIMES 4:30 PM UNLESS INDICATED

- | | | |
|----|--|-----------|
| 1. | PRELIMINARY MATTERS | DATE |
| a. | Was Rule 26(f)(1) Conference held? Yes, by telephone. | 07/31/06 |
| b. | Has Attorney Planning Meeting Form been submitted?
Yes | 08/10/06 |
| c. | Was 26(a)(1) initial disclosure completed? No. | 09/01/06 |
| 2. | DISCOVERY LIMITATIONS | NUMBER |
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>10</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>10</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>8</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>30</u> |
| e. | Maximum requests for admissions by any Party to any
Party | <u>30</u> |
| f. | Maximum requests for production by any Party to any
Party | <u>30</u> |

3.	AMENDMENT OF PLEADINGS/ADDING PARTIES ²		DATE
a.	Last Day to File Motion to Amend Pleadings		<u>02/02/07</u>
b.	Last Day to File Motion to Add Parties		<u>02/02/07</u>
4.	RULE 26(a)(2) REPORTS FROM EXPERTS ³		DATE
a.	Plaintiff		<u>03/16/07</u>
b.	Defendant		<u>03/30/07</u>
c.	Counter reports		
5.	OTHER DEADLINES		DATE
a.	Discovery to be completed by:		
	Fact discovery		<u>02/02/07</u>
	Expert discovery		<u>04/13/07</u>
b.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)		
c.	Deadline for filing dispositive or potentially dispositive motions		<u>05/31/07</u>
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION		DATE
a.	Referral to Court-Annexed Mediation:	<u>No</u>	
b.	Referral to Court-Annexed Arbitration	<u>No</u>	
c.	Evaluate case for Settlement/ADR on		<u>02/02/07</u>
d.	Settlement probability: Cannot be determined until after fact discovery is completed		
7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
a.	Rule 26(a)(3) Pretrial Disclosures ⁴		
	Plaintiff		<u>08/31/07</u>
	Defendant		<u>09/14/07</u>
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		

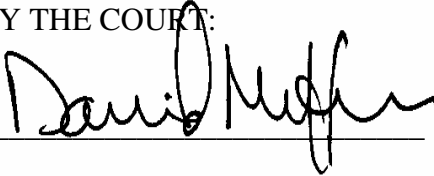
- | | | | |
|----|---|---------------|---------------------------|
| c. | Special Attorney Conference ⁵ on or before | | <u>09/28/07</u> |
| d. | Settlement Conference ⁶ on or before | | <u>10/12/07</u> |
| e. | Final Pretrial Conference | 2:30 p.m. | <u>10/26/07</u> |
| f. | Trial | <u>Length</u> | |
| | i. Bench Trial | | |
| | ii. Jury Trial | <u>5 days</u> | 8:30 a.m. <u>11/05/07</u> |

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 22nd date of August, 2006.

BY THE COURT:



U.S. Magistrate Judge

¹ The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).

² Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

³ **Error! Main Document Only.** A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

⁴ Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

⁵ The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

⁶ The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

STEPHEN R. MCCAUGHEY - 2149
Attorney for Defendant
10 West Broadway, Suite 650
Salt Lake City, Utah 84101
Telephone: (801) 364-6474
Facsimile: (801) 364-5014

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

MICHAEL JOHN QUICK,

Defendant.

ORDER EXTENDING TEMPORARY RELEASE CONDITIONS

Case No. 2:06-CR-002 DB

Based on the motion of the defendant and the agreement of the government, it is hereby:
ORDERED that defendant be given until September 6, 2006 to return from his authorized trip to
Florida.

DATED this 21st day of August, 2006.

BY THE COURT:

Dee Benson

HONORABLE DEE BENSON
United States District Court Chief Judge

CERTIFICATE OF SERVICES

I hereby certify that on this 18th day of August, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Karin Fojtik (E-Filer)

karin.fojtik@usdoj.gov janet.larson@usdoj.gov

/s/ Brittany Bagley

UNITED STATES DISTRICT COURT

Central

District of

Utah

UNITED STATES OF AMERICA

V.

Jose Belen Payan-Valencia

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:06-cr-000122-001

USM Number: 09250041

Robert L. Steele

Defendant's Attorney

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH
AUG 18 2006
BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

THE DEFENDANT:

☒ pleaded guilty to count(s) I-Indictment

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8USCS1326	Re-Entry of Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/16/2006

Date of Imposition of Judgment

Dee Benson

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

8-17-2006

Date

DEFENDANT: Jose Belen Payan-Valencia
CASE NUMBER: 2:06-cr-000122-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

21 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends a Federal Correctional Institution as close to California City, California for family visitations.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Jose Belen Payan-Valencia
CASE NUMBER: 2:06-cr-000122-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

24 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Jose Belen Payan-Valencia

CASE NUMBER: 2:06-cr-000122-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.

DEFENDANT: Jose Belen Payan-Valencia

CASE NUMBER: 2:06-cr-000122-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>
--------	----------------	----------------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Jose Belen Payan-Valencia
CASE NUMBER: 2:06-cr-000122-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 18 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 2:06-CR-00229DB
	:	
Plaintiff,	:	
	:	
v.	:	ORDER
	:	
MOHAMED SHAFEEK and	:	
A.C. HEALTHCARE SUPPLY CO.	:	
INC.,	:	
	:	
Defendants.	:	Judge Dee Benson

The Court, having reviewed and considered the Government's First Motion to Continue Sentencing, there being no objections thereto, and good cause appearing,

IT IS ORDERED that the sentencing in the above-captioned action be continued from September 9, 2006 to the December 6, 2006, beginning at 2:00 p.m.

DATED this 18th day of August, 2006.

BY THE COURT:



The Honorable Dee Benson
United States District Judge

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 17 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARMANDO PADILLA-BECERRIL,

Defendant.

Case No. 2:06CR 388 DAK

**CONSENT TO ENTRY OF PLEA
OF GUILTY BEFORE THE
MAGISTRATE JUDGE AND
ORDER OF REFERENCE**

Pursuant to 28 U.S.C. § 636(b)(3), the defendant, ARMANDO PADILLA-BECERRIL, after consultation and agreement with counsel, consents to United States Magistrate Judge Brooke C. Wells accepting defendant's plea of guilty and to the Magistrate Judge conducting proceedings pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The defendant also acknowledges and understands that sentencing on his plea of guilty will be before the assigned District Judge after a pre-sentence investigation and report, and compliance with Fed.R.Crim.P. 32.

The United States, by and through the undersigned Assistant United States Attorney, consents to the Magistrate Judge conducting plea proceedings pursuant to Fed.R.Crim.P. 11, and

accepting the defendant's plea of guilty as indicated above,
pursuant to such proceedings.

DATED this 17 day of August, 2006.

Armando P
Defendant

[Signature]
Attorney for Defendant

[Signature]
Assistant United States Attorney

ORDER OF REFERENCE

Pursuant to 28 U.S.C. § 636(b)(3), and the consent of the
parties above mentioned, including the defendant,

IT IS HEREBY ORDERED that United States Magistrate Judge
Brooke C. Wells shall hear and conduct plea rendering under
Fed.R.Crim.P. 11, and may accept the plea of guilty from the
defendant pursuant thereto after full compliance with
Fed.R.Crim.P. 11.

DATED this ¹⁴~~10~~TH day of August, 2006

BY THE COURT:

DALE A. KIMBALL
DALE A. KIMBALL
United States District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

UNITED STATES OF AMERICA,	:	2:06CR00444DB
	:	
Plaintiff,	:	
	:	ORDER CONTINUING JURY
vs.	:	TRIAL
	:	
CHARLES GEORGE ANDREOPOULOS,	:	Judge Dee Benson
	:	
Defendant.	:	

The Court hereby ORDERS that the Jury Trial scheduled for Monday, August 28, 2006 at 8:30 a.m. be continued to the 30 day of the Oct, 2006.

The Court finds that the ends of justice served by the continuance to the new date outweigh the best interests of the public and the defendant.

DATED this 22 of August, 2006.

BY THE COURT:



Dee Benson
United States District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office, and that a copy of the foregoing Government's Motion to Continue Jury Trial has been mailed to the party named below, this 16th day of August, 2006.

Jamie Zenger, Esq.
Attorney at Law
Utah Federal Defenders

/s/ Candy Grosjean

Candy Grosjean

AUG 21 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NUA DOMINIC TILIAIA,

Defendant.

Case No. 2:06-CR-00506 JTG

PRETRIAL SCHEDULING ORDER

Judge J. Thomas Greene

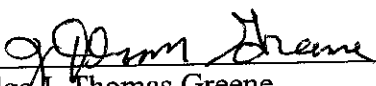
The above-entitled action came on for pretrial status and scheduling conference on August 14, 2006, before United States District Court Judge Thomas Greene. Defendant, Defense Counsel and Special Assistant United States Attorney were present. Based thereon, the following is entered:

1. A jury trial is set for two days, September 25 through September 26, 2006, beginning at 10:00 a.m. It appears that the trial date is appropriate if the matter is tried.
2. The government has provided discovery, and therefore, September 11, 2006 at 5:00 p.m. appears to be an appropriate deadline by which defense counsel shall file any motions, such as motions to suppress evidence.
3. The Court further orders that should this case be resolved by any negotiated plea, that such negotiations should be completed by September 18, 2006, at 10:00 a.m. A pre-trial

conference is also scheduled at this time.

4. All trial related documents, including jury instructions and exhibit lists, are to be delivered by hard copy to the Court's chambers by September 18, 2006.
5. Both parties are admonished to make arrangements for timely service of witness subpoenas, if necessary.

SO ORDERED



Judge J. Thomas Greene
8/18/06

James A. Valdez (#3308).
466 South 400 East, Suite 102
Salt Lake City, Utah 84111-3301
Telephone: (801) 328-3999
Facsimile: (801) 328-3998
E-mail: AbogadosincJV@netscape.net
Lawyer for Ms. Huyhn

FILED 08/21/2006
COURT DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff,

-vs-

NGOC HOA HUYNH, et al.

Defendant.

:
:
: ORDER GRANTING
: MOTION FOR PAYMENTS FOR
: ESSENTIAL SERVICES
:
:
:

: Case No. 2:06-CR-00550 PGC
:
:
:

FOR GOOD CAUSE SHOWN,

IT IS HEREBY ORDERED, that the payment be made to the United States in the amount of \$150.00 for a hard drive containing the discovery, and \$150 for the Government's labor in the above-entitled case pursuant to the Criminal Justice Act for Ngoc Hoa Huynh.

So Ordered this 22nd day of August 2006.



Judge

Edwin S. Wall, Utah Bar No. 7446
8 East Broadway, Ste. 500
Salt Lake City, Utah 84111
Phone Number: (801) 523-3445
Facsimile: (801) 764-0900
Email: wallsec@xmission.com

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HOA THANH VO;
HENRY NGOC NGUYEN;
BUU VAN TRUONG;
NGOC HOA HUYNH, (aka "NOA" and "NORA"
and "NORWA");
HUU LUONG HUYNH (aka "JOHN HUYNH")
DANH HUY DO;
JAMES JUGH McCLURG;
TINH HUU CAO;
LANH TA HUYNH;
YEN THI PHAM;
DZUNG TAN HUYNH;
YEN THI PHAM;
DZUNG TAN HUYNH, (aka "JACE");
MY CHAU TRAN, (aka "LEEELEE" aka "LILY");
HUE THI HUYNH;
TRI DUNG MINH NGUYEN, (aka "YOON");
MISCHELLE LIEN POLISH;
CUC THI NGUYEN (aka "KATHY NGUYEN")
BILLY CHANH TRAN;
THI THO NGUYEN;
JOHNATHAN QUY TRAN;
WINONA JUAN FISHER (aka "WENDY FISHER");
DUNG LEE;
HIEU DINH HOANG; and
TAMY TA;
[BUU VAN TRUONG]

Defendants.

Case No.: 2:06-CR-550 PGC

Hon. Paul G. Cassell
Magistrate Judge Samuel Alba

ORDER GRANTING EX PARTE MOTION FOR PAYMENTS
FOR ESSENTIAL SERVICES

THIS MATTER having come before the Court pursuant to the *Ex Parte Application and Motion for Payments for Essential Services* submitted by the Defendant, Buu Van Truong, the Court having reviewed the pleadings and being thus informed; now therefore,

IT IS ORDERED that the payment to the United States in the amount of \$150.00 for a hard drive containing the discovery in the above-entitled case pursuant to the Criminal Justice Act for the Buu Van Truong, and all other defendants represented by court appointed counsel who have joined in the motion.

DONE in Chambers this 22nd day of August, 2006.



Judge

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

Christina White, Plaintiff, vs. Scott John Ockey, et al. Defendants.	ORDER ON MOTIONS Case No. 2:06-CV-17 TS
--	--

On August 14, 2006, Plaintiff, proceeding *pro se* and *in forma pauperis*, filed a motion to strike the State Defendant's Reply in support of its Motion to Dismiss, arguing that the Reply was untimely filed.¹ Also, on August 14 and 17, 2006, Plaintiff filed what the Court construes to be motions to amend² its August 7, 2006 orders granting Defendant Ockey's and the State Defendant's Motions to Dismiss.³ With respect to these orders, Plaintiff argues that the Court

¹Docket No. 51.

²Fed. R. Civ .P. 59(e). "[A] motion questioning the correctness of a judgment and timely made within ten days thereof will be treated under Rule 59(e)." *Dalton v. First Interstate Bank*, 863 F.2d 702, 703 (10th Cir. 1988). A Rule 59(e) motion to alter or amend judgment is essentially a motion for reconsideration. *Grider v. Positive, Safety Mfg. Co.*, 162 F.R.D. 361, 361-62 (D.Kan. 1995) (citing *Henry v. Office of Thrift Supervision*, No. 92-4272, 1993 WL 545195, *1 (D.Kan. 1993), *aff'd*, 43 F.3d 507 (10th Cir. 1994).

³Docket Nos. 53 and 54.

misunderstood facts and arguments, that it incorrectly applied the law, and that there is new evidence in the case which merits reconsideration.

“Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.”⁴ “Thus, a Motion for reconsideration is appropriate where the court has misapprehended the facts, a party’s position, or the controlling law. . . . It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.”⁵

The Court is not convinced that there are sufficient grounds warranting reconsideration of its August 7, 2006 orders dismissing Plaintiff’s case. Despite Plaintiff’s attempts to re-argue issues already addressed in those orders, the Court notes no misunderstanding or misapplication of law. Further, Plaintiff presents no new evidence which was not either available to her previously or otherwise presented in the memoranda leading to the dismissal. Rather, the Court finds that the issues in Plaintiff’s memoranda revisit issues already addressed, or present arguments that could have been raised in the prior briefing. Reconsideration is not needed to correct any clear error or to prevent manifest injustice in this case.

Also, because Plaintiff’s case has been dismissed, any motion to strike is now moot. It is therefore

ORDERED that Plaintiff’s Motions to Amend (Docket Nos. 53 and 54) are DENIED.

⁴*Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

⁵*Id.*

It is further

ORDERED that Plaintiff's Motion to Strike (Docket No. 51) is DENIED as MOOT.

DATED August 22, 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Stewart", written over a horizontal line.

TED STEWART
United States District Judge

AUG 21 2006

HOWREY LLP

Evelyn J. Furse (8952)
Rod N. Andreason (8853)
170 South Main Street, Suite 400
Salt Lake City, UT 84101
Telephone: (801) 533-8383
Facsimile: (801) 531-1486

**WILDMAN, HARROLD, ALLEN &
DIXON LLP** BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

Craig M. White (*pro hac vice*)
Lucy C. Lisiecki (*pro hac vice*)
P. Aaron Basilius (*pro hac vice*)
225 W. Wacker Drive, Suite 3000
Chicago, IL 60606-1229
Telephone: (312) 201-2000

Attorneys for Defendant John Fife

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

MARK TECHNOLOGIES CORPORATION,
derivatively on behalf of MORGAN GAS &
OIL, INC., and JEROME BARAL, DDS, JOHN
U. COURTNEY, JR., LINDSAY RALPHS,
Trustee of the T.F. RALPHS LIVING TRUST,
RAYMOND E. WILKIN, and BARBARA
STOTTERN,

Plaintiffs,

vs.

JOHN FIFE,

Defendant.

**ORDER GRANTING
EX PARTE MOTION TO
WITHDRAW**

Civil No. 2:06cv00030 PGC
Judge Paul G. Cassell

IT IS HEREBY ORDERED that Evelyn J. Furse, Esq. is granted leave to withdraw as
counsel for Defendant John Fife.

IT IS FURTHER ORDERED that Rod N. Andreason, Esq. shall be substituted as counsel
for Defendant John Fife.

DATED this 21st day of August, 2006.



JUDGE PAUL G. CASSELL

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification to the following:

Reid W. Lambert
Anthony M. Grover
WOODBURY & KESLER, P.C.
265 East 100 South, Suite 300
P.O. Box 3358
Salt Lake City, UT 84111-3358

/s/Lynda A. Hansen

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

THEODORE HANSEN, et al.,

Plaintiffs,

vs.

NATIVE AMERICAN REFINERY CO., et
al.,

Defendants.

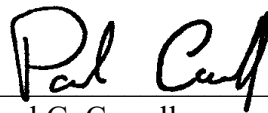
ORDER OF REFERENCE

Civil No. 2:06-CV-00109 PGC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this Court, the above entitled case is referred to Magistrate Judge Paul Warner. The magistrate judge is directed to hear and determine any nondispositive pretrial matters pending before the Court.

DATED this 22nd day of August, 2006.

BY THE COURT:



Paul G. Cassell
United States District Judge

BRETT L. TOLMAN, United States Attorney (#8821)
JARED C. BENNETT, Assistant United States Attorney (#9097)
Attorneys for the United States of America
185 South State Street, Ste. 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

FILED IN THE DISTRICT COURT OF THE
DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, :
 : Civil No. 2:06CV00292 DB
Petitioner, :
 : ORDER OF DISMISSAL
v. :
 :
CARI L. ERTMAN, :
 :
Respondent. :

Based upon the United States' Notice of Dismissal and good cause appearing therefor,
IT IS HEREBY ORDERED that this case is DISMISSED, with each party to bear its own
costs.

DATED this 21st day of August 2006.

BY THE COURT:


Honorable Judge Dee V. Benson
United States District Court

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 21 2006

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

SGW, a minor child, by and through
her guardians and natural parents,
SAW and SFW,

Plaintiffs,

vs.

GRANITE SCHOOL DISTRICT,

Defendant.

:
:
:
:
:
:

SCHEDULING ORDER

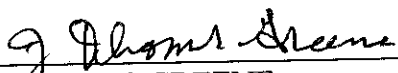
Case No. 2:06-cv-00338 JTG

An initial scheduling conference was held before the Court on August 9, 2006. Present for the Plaintiffs were Nan T. Bassett and Gary T. Wight. Present for the Defendant was Joni J. Jones. Pursuant to the scheduling conference, the Court hereby ORDERS:

1. Defendant's Answer to Plaintiffs' Amended Complaint, as well as Initial Disclosures, are due by August 17, 2006.
2. Initial discovery will be limited to Defendant's liability.
3. Initial discovery will be conducted in the form of depositions.
4. Each party will initially be limited to five depositions.

5. A second scheduling conference will be held on November 20, 2006 in order to track the parties' progress and discuss further discovery.

DATED this 18th day of August, 2006.



J. THOMAS GREENE
U.S. District Court Judge

APPROVE AS TO FORM:

UTAH ATTORNEY GENERAL

/s/ Joni J. Jones

JONI J. JONES
Assistant Utah Attorney General

KIPP AND CHRISTIAN, P.C.

/s/ Nan T. Bassett

NAN T. BASSETT
GARY T. WIGHT
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

DAVID R. HITTLE,

Plaintiff,

vs.

STATE OF UTAH; ROBIN REESE, District
Judge in Third District of Utah;
CONSTANDINOS HIMONAS, District
Judge in Third District of Utah,

Defendants.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:06-CV-415


Judge Dee Benson

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Brooke C. Wells on July 25, 2006 recommending that Plaintiff's claims be DISMISSED.

The parties were notified by mail of their right to file objections to the Report and Recommendation within ten (10) days after receiving it. Plaintiff filed a timely response. But Plaintiff's response does not address any of the substantive explanations given by the magistrate judge for dismissing Plaintiff's case. Having reviewed all relevant materials, including the reasoning set forth in the magistrate judge's Report and Recommendation, the Court ADOPTS the Report and Recommendation and DISMISSES Plaintiff's case.

IT IS SO ORDERED.

DATED this 21st day of August, 2006.


Dee Benson
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MARK J. STEPHENS,
Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,
Defendant.

SCHEDULING ORDER

Case No. 2:06CV445DAK

In order to facilitate the prompt disposition of this Social Security appeal,

IT IS HEREBY ORDERED that on or before the following dates, the parties shall file and serve a memorandum setting forth concisely the basis for the affirmance or reversal of the Commissioner's final decision, or request for remand under sentence six of 42 U.S.C. § 405(g), and a detailed analysis of the administrative record with **pinpoint citations** of authorities in support of the party's position, and to the administrative record:

PLAINTIFF: September 25, 2006

COMMISSIONER: October 30 , 2006

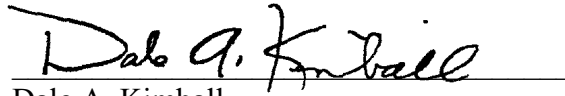
PLAINTIFF'S REPLY: November 15, 2006

Upon receipt of the Commissioner's memoranda, the Court will schedule oral argument. The Court will make every effort to enter a final determination of this appeal at the hearing or shortly thereafter. The parties may stipulate to extensions of time as long as the court receives

notice of such stipulation. This court will grant an extension of time to file briefs only for good cause.

DATED this 21st day of August, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Dale A. Kimball", is written over a horizontal line.

Dale A. Kimball
United States District Judge

ROBYN L. PHILLIPS (USB No. 7425)
MATTHEW A. BARLOW (USB No. 9596)
WORKMAN | NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
Telephone: (801) 533-9800

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 22 2006

BY MARKUS B. ZIMMER, CLERK
DEPUTY CLERK

ROBERT P. DUCATMAN (*Pro Hac Vice Application* Forthcoming)
MEREDITH M. WILKES (*Pro Hac Vice Application* Forthcoming)
JONES DAY
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Telephone: (216) 586-3939

Attorneys for Plaintiff
THE SCOTT FETZER COMPANY

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

THE SCOTT FETZER COMPANY, a Delaware Corporation,	)	Civil Action No. 2:06cv00456 DS
)	
Plaintiff,)	
)	
v.)	
)	
OREM VACUUM AND SEWING, a Utah business, and GREG MORGAN, an individual,	)	Judge David Sam
)	
Defendants.)	

ORDER OF INJUNCTION AND CONSENT DECREE

IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

(1) Before the Court is Plaintiff, The Scott Fetzer Company's ("Scott Fetzer")

Complaint asserting trademark infringement, trademark dilution and related unfair competition

and deceptive trade practices claims against Defendants, Greg Morgan and Orem Vacuum and Sewing.

(2) Without the taking of any testimony, or admission of facts by any party, the parties are hereby willing to enter the following consent judgment and order of injunction. On the basis of the materials submitted to the Court, the Court enters the following PERMANENT INJUNCTION to take effect immediately.

(3) Defendant, Greg Morgan, d/b/a Orem Vacuum and Sewing, and those in privity with him or otherwise acting on his behalf ("Defendants"), are permanently ENJOINED from:

(a) Using any reproduction or colorable imitation of Scott Fetzer's trademarks and service marks, including the mark "KIRBY", or any mark confusingly similar thereto ("the KIRBY Trademarks");

(b) Publishing any listing or advertisement that includes the KIRBY Trademarks;

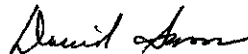
(c) Using or displaying any signage or engaging in any other conduct which suggests or tends to suggest to the public that Defendants are, in any manner, directly or indirectly, affiliated, connected or associated with Scott Fetzer and/or The Kirby Company, or that Defendants' services, goods or commercial activities originate from or are sponsored or approved by Scott Fetzer and/or The Kirby Company; or

(d) Engaging in any conduct that tends to dilute and/or blur the unique association between Scott Fetzer's goods and services and the famous KIRBY Trademarks or tends to tarnish or blur the distinctiveness of the KIRBY Trademarks.

WHEREFORE, final judgment is hereby rendered for Plaintiff and against Defendants.

each party to bear its own costs.

Dated this ^{August 1st} 21st day of July, 2006.



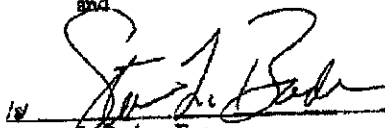
David Sam
United States District Court Judge

Agreed to by:



Greg Morgan, an individual and Proprietor of
Orem Vacuum and Sewing, Defendants

and



Steven L. Baden, Esq.
Senior Corporate Counsel
The Scott Fetzer Company, Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SHAWN ALLRED,)	
)	
Plaintiff,	)	Case No. 2:06-CV-566 DAK
)	
v.	)	District Judge Dale A. Kimball
)	
SOCIAL SECURITY ADMIN. et al.,	)	O R D E R
)	
Defendants.	)	Magistrate Judge David Nuffer

Plaintiff, Shawn Allred, moves for an extension of time in which to comply with the Court's July 11, 2006, order that he file with the Court within thirty days a certified copy of his inmate trust fund account statements covering the dates between February 15, 2006 and May 27, 2006.

At this point, Plaintiff has already had additional days in which to comply. However, IT IS HEREBY ORDERED that Plaintiff's motion for a time extension is granted. If Plaintiff does not submit his inmate account statements by September 15, 2006, his case will be dismissed.

DATED this 22nd day of August, 2006.

BY THE COURT:

s/David Nuffer
DAVID NUFFER
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

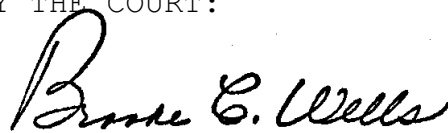
SHAWN ALLRED,)	
)	
Plaintiff,	)	Case No. 2:06-CV-575 TS
)	
v.	)	District Judge Ted Stewart
)	
DON TAYLOR et al.,	)	O R D E R
)	
Defendants.	)	Magistrate Judge Brooke Wells

Plaintiff, Shawn Allred, moves for an extension of time in which to comply with the Court's July 13, 2006, order that he file with the Court within thirty days a certified copy of his inmate trust fund account statements covering the dates between February 15, 2006 and May 27, 2006.

At this point, Plaintiff has already had additional days in which to comply. However, IT IS HEREBY ORDERED that Plaintiff's motion for a time extension is granted. If Plaintiff does not submit his inmate account statements by September 15, 2006, his case will be dismissed.

DATED this 22nd day of August, 2006.

BY THE COURT:



BROOKE C. WELLS
United States Magistrate Judge

UNITED STATES DISTRICT COURT

Central

District of

UTAH

Kerry Matern

Plaintiff

V.

Jo Anne Barnhart

Defendant

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

CASE NUMBER:

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

AUG 21 2006

MARKUS B. ZIMMER, CLERK
BY DEPUTY CLERK

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:

☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

Judge Dee Benson

DECK TYPE: Civil

DATE STAMP: 08/21/2006 @ 15:34:01

CASE NUMBER: 2:06CV00695 DB

ENTER this 21st day of August, 2006.


Signature of Judge

Magistrate Judge Samuel Alba

Name and Title of Judge

UNITED STATES DISTRICT COURT

Central Division

District of

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

Jill Anderson

Plaintiff

V.

United States Attorney

Defendant

ORDER ON APPLICATION
TO PROCEED WITHOUT
PREPAYMENT OF FEES

AUG 21 2006

MARKUS B. ZIMMER, CLERK
CITY CLERK

Judge Paul G. Cassell

DECK TYPE: Civil

DATE STAMP: 08/21/2006 @ 16:33:17

CASE NUMBER: 2:06CV00698 PGC

Having considered the application to proceed without prepayment of fees under 28 USC §1915;

IT IS ORDERED that the application is:


☒ GRANTED.

☒ The clerk is directed to file the complaint.

☐ IT IS FURTHER ORDERED that the clerk issue summons and the United States marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff. All costs of service shall be advanced by the United States.

☐ DENIED, for the following reasons:

ENTER this 18th day of August, 2006.


Signature of Judge

Magistrate Judge Paul M. Warner

Name and Title of Judge

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ALEXANDER DERING,

Plaintiff,

vs.

SERVICE EXPERTS ALLIANCE, et al.,

Defendants.

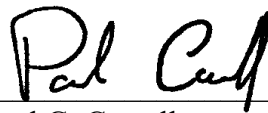
ORDER OF REFERENCE

Civil No. 2:06-MC-00689 PGC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(B) and the rules of this Court, the above entitled case is referred to Magistrate Judge David Nuffer. The magistrate judge is directed to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented.

DATED this 22nd day of August, 2006.

BY THE COURT:



Paul G. Cassell
United States District Judge

Rebecca C. Hyde (#6409)
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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

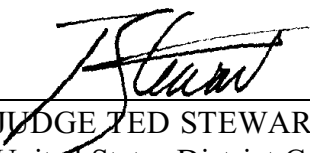
UNITED STATES OF AMERICA)	ORDER TO SEAL
Plaintiff,)	
vs.)	
LAWRENCE A. KRASNEY,	)	Case No. 2:98cr278
Defendant.	)	Judge Ted Stewart

Based on the Motion to Seal filed by the defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the Court seal the Notice of Conventional Filing (document #447), which was filed August 18, 2006.

DATED this 22nd day of August, 2006.

BY THE COURT:



JUDGE TED STEWART
United States District Court Judge

FILED IN U.S. DISTRICT COURT
AUG 21 2000
MAGISTRATE B. L. ALBA
CLERK

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Attorneys for Plaintiffs against all
other Defendants

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

DANIEL O. BRYANT, et al.

Plaintiffs,

vs.

CLEALON B. MANN, et al.,

Defendants.

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR ENTRY
OF ORDER DISMISSING MICHAEL
D. SMITH**

Civil No. 98-CV-784B


Judge Dee Benson
Magistrate Judge Samuel Alba

Based on Plaintiff's Motion seeking an order dismissing Michael D. Smith as a defendant in this lawsuit, good cause appearing, the Court,

HEREBY ORDERS that Michael D. Smith be dismissed as a defendant in the above-captioned lawsuit.

DATED: 8/12/06, 2006.

BY THE COURT:



Hon. Dee Benson
Chief U.S. District Judge

AUG 21 2003

BY MARION R. DUNN, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

Magistrate Judge Samuel Alba

1. Petition of Nanell Mann for Relief from Judgment (Docket No. 531) (the “Nanell Mann Petition”);
2. Plaintiff’s Motion for Order to Show Cause (Docket No. 555) (the “Show Cause

¹Also before the Court at the hearing were various other motions in this case, including Plaintiff's Motion to Correct Order Granting Plaintiff's Motions for Partial Summary Judgment, which was resolved prior to the hearing by entry of an Amended Order on October 5, 2005; Michael D. Smith's Motion to Appear by Telephone and Motion to Dismiss; and Plaintiff's Motion for Partial Summary Judgment against the Broker Defendants, which are the subject of a separate order.

Motion"); and

3. Plaintiff's Motion to Compel Transfer of Shares (Docket No. 571) (the "Motion to Compel Transfer").

Robert B. Lochhead of Parr Waddoups Brown Gee & Loveless and Mark H. Richards of Hatch James & Dodge appeared on behalf of the plaintiff; James N. Barber appeared on behalf of defendants Clealon B. Mann, Somerset Group, Inc., Spectrim International, and Genie Total Products, and also on behalf of Nanell Mann, who is not a party; Wallace T. Boyack of Boyack Ashton appeared on behalf of NexMed, Inc., which is not a party; and defendant Michael D. Smith participated telephonically *pro se*. At the hearing, Mr. Barber represented on behalf of his clients that after diligent search and inquiry of his clients he is not aware of the location of the stock certificates of MexMed, Inc., MTI or IMSI which are the subject of this Order.

The Court having considered the above motions and petition, the memoranda submitted by the parties, the Affidavit of Matthew J. Ball, the statements and arguments of counsel, and all other pertinent matters of record, and for reasons stated on the record at the hearing, it is now hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. The Nanell Mann Petition is hereby denied.
2. Defendant Clealon B. Mann is ordered forthwith to cause the Lexus automobile referred to in this Court's Amended Order Granting Plaintiff's Motions for Partial Summary Judgment, dated October 5, 2005 (Docket No. 548) (the "October 5 Order"), to be surrendered to counsel for the plaintiff, together with a certificate of title transferring clean title to plaintiff.
3. All shares of MexMed, Inc. and MTI and/or IMSI stock referred to in the October 5 Order (a copy of which is appended hereto) issued to any of the defendants are hereby declared

to be transferred to and owned by the plaintiff, and the stock transfer agents of the respective companies are authorized to issue certificates evidencing such shares to the plaintiff. Defendant Clealon B. Mann is ordered to cooperate fully with the plaintiff to facilitate the issuance of such stock certificates, including but not limited to giving any directions, authorizations or affidavits that may be necessary or appropriate to carry out the provisions of this Order.

4. Failure to comply with this Order may result in a finding of contempt and imposition of sanctions to be determined hereafter.

DATED this 17th day of August, 2006.

BY THE COURT:



Hon. Dee Benson
Chief U.S. District Judge

APPROVED AS TO FORM:

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Attorneys for Plaintiff

By: s/Mark H. Richards
Mark F. James
Mark H. Richards

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2006, I caused a true and correct copy of the foregoing **ORDER ON PETITION FOR RELIEF FROM JUDGMENT; MOTION FOR ORDER TO SHOW CAUSE, AND MOTION TO COMPEL TRANSFER OF SHARES** to be served via U.S. Mail, postage prepaid, addressed to the following:

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/s/ Adriane Wright

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